

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

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IN THE MATTER OF: . Case No. 16-27041 (JKS)  
. Newark, New Jersey  
HANJIN SHIPPING CO., LTD., . Chapter 15  
. .  
Foreign Representative. . September 15, 2016  
- - - - - . 11:15:00 a.m.

TRANSCRIPT OF MOTION RE:  
MOTION FOR RECONSIDERATION  
BY THE MARITIME LEINHOLDERS  
**BEFORE THE HONORABLE JOHN K. SHERWOOD**  
**UNITED STATES BANKRUPTCY JUDGE**

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I N D E X

(9/15/16)

PAGE

ARGUMENT BY:

MR. SIMMS

10

MR. REED

16

MS. VOLKOV

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DECISION

32

Simms/Argument

6

1 (Prior portions of proceeding not requested)

2 THE COURT: All right, let's turn to the motion for  
3 reconsideration by the Maritime lienholders.

4 MR. SIMMS: Some developments since last week and I --

5 THE COURT: State your name for the record. Steve  
6 Simms for the Maritime lien creditors and for Textainer which  
7 is also a maritime lien creditor.

8 So I think the Court's observation that the case  
9 needs to breath is a good one and we've had some breathing in  
10 the last week. The claims for Ocean Connect against the  
11 Montevideo, principal amounts were paid. The claims against  
12 the Hanjin Greece principal amounts were paid.

13 There's some amounts still due on that arrest also to  
14 World Fuel. Mr. Reed there is going to have something to say  
15 too. But we're moving ahead.

16 THE COURT: Well hold on, hold on. Is this a motion  
17 for reconsideration of my order or is this a status report?

18 MR. SIMMS: This is, as we left it last week, we  
19 wanted reconsideration because of the non-payment of, on the  
20 Greece. The Greece is paid. Now --

21 THE COURT: Where was the Greece?

22 MR. SIMMS: In Long Beach. The Greece was the first  
23 --

24 THE COURT: Okay, was that arrested?

25 MR. SIMMS: No, sir.

Simms/Argument

7

1 THE COURT: It was just sitting in Long Beach?

2 MR. SIMMS: Yes, sir.

3 THE COURT: Okay.

4 MR. SIMMS: We have, we have the --

5 THE COURT: So that's good.

6 MR. SIMMS: We have the, on the Greece, the sufficient  
7 protection. And we have on the Montevideo almost the  
8 sufficient protection.

9 So in the last week and immediately when Your Honor  
10 made Your Honor's order, we filed a reconsideration of motion  
11 and along with that set out the Korean law.

12 And it's clear, there's no security at all. There is  
13 no sufficient protection for these maritime lien creditors,  
14 none. And there is, the speculation of Korean counsel on the  
15 phone that there is does not hold up. Fundamentally in Korea  
16 there is no maritime claim against a ship where the claim is  
17 originated by a charterer. Hanjin is a charterer.

18 Our maritime lien claims have no rights at all in  
19 Korea. For that reason and also because the ships are not  
20 Hanjin estate property. Not even the Hanjin Scarlet is Hanjin  
21 estate property, it's own by the Hanjin Trust which is not in  
22 insolvency proceedings.

23 THE COURT: Is it chartered by Hanjin?

24 MR. SIMMS: It is chartered by Hanjin.

25 THE COURT: Okay.

1 MR. SIMMS: But the point is this, all right, if these  
2 were owned vessels by Hanjin, we still wouldn't have any  
3 secured claim in Korea. We have no claim. And so --

4 THE COURT: Well you have no claim outside of the west  
5 either. And most of these vessels are outside of the U.S.

6 MR. SIMMS: And we're only talking about a handful of  
7 vessels. And as --

8 THE COURT: Listen --

9 MR. SIMMS: Going back to the idea of breathing, in  
10 the last week and since the case has begun, the maritime lien  
11 creditors that the Court has heard from is our clients and  
12 World Fuel and that's it. And there's not a whole ocean of  
13 maritime lien creditors who are coming in to claim against  
14 these ships. The --

15 THE COURT: Maybe they're just, think they're bound by  
16 the stay that was entered in Korea.

17 MR. SIMMS: No, no, sir, I don't think they think  
18 that. Because they know that they will lose their rights. If  
19 they're well advised, they know they'll lose their rights if  
20 the ships depart U.S. and are not arrested.

21 Well the Hansa Gdynia just pulled in last night to  
22 Long Beach. And I don't think there are any maritime lien  
23 claimants that have claims against the Gdynia. Mr. Reed does  
24 World Fuel have?

25 MR. REED: I know we have claims against three ships



1 that are off the U.S., but I'm not sure if that's --

2 MR. SIMMS: Not the Gdynia, okay. So I put in the  
3 further support paper that we filed, the sum total of what the  
4 maritime lien creditors are owed, all right at the top. The  
5 Baltimore is now under arrest down next to, on the Panama side,  
6 the Pacific side of the Canal, Panama Canal. World Fuel is on  
7 that ship too. But there's \$227,000 of our client's claims on  
8 that ship.

9 The Boston which is now unloading, 238,000 worth of  
10 claims. So we would need relief to either come to terms with  
11 the Boston owners who are on the phone or to arrest that ship.  
12 Because once it goes, it's gone. Let me stop --

13 THE COURT: Where is the Boston now?

14 MR. SIMMS: It's a Long Beach.

15 THE COURT: All right, so the Boston comes into Long  
16 Beach under the protection of my order that I entered on  
17 Friday. And now you want me to change my mind and say sorry  
18 I'm going to allow the maritime lien holders --

19 MR. SIMMS: Well since --

20 THE COURT: To lien your vessel or seize you? I'm not  
21 going to do that.

22 MR. SIMMS: Since we have the Boston owners on the  
23 phone, here's what's going to the Boston and they can tell me  
24 if I'm wrong.

25 Number 1, it doesn't belong to Hanjin. Number 2,

1 there's no outbound cargo. Number 3, the charter hire to the  
2 Boston has been in arrears for at least two months and probably  
3 more. And number 4, if the Boston is still under charter which  
4 I doubt, it's going to go off charter once it leaves. It has  
5 no employment. It doesn't even have, you'll remember Your  
6 Honor that --

7 THE COURT: Listen, if it goes off charter then it  
8 won't be covered by the stay and you can get them when they're  
9 in the U.S. next time.

10 MR. SIMMS: And why then, okay. If it's still under  
11 charter, why then should the Court not extend sufficient  
12 protection to our creditors for that ship if all that's going  
13 to happen is as soon as it gets three miles outside of the U.S.  
14 it goes off charter and sails to Singapore or to some place  
15 where we have no rights. And then gets arrested by the foreign  
16 mortgage holder that will prime us and wipe us out. Why should  
17 the Court permit that? It's a --

18 THE COURT: I already permitted it. I permitted it by  
19 my order on Friday.

20 MR. SIMMS: The coming --

21 THE COURT: And they relied on my order and came to  
22 Court. I'm not going to, they had the right to rely on my  
23 order.

24 MR. SIMMS: The, what -- they came in which is what  
25 Your Honor wanted them to do. But what Your Honor --

1 THE COURT: And I, and they can leave. They can leave  
2 when they're done unloading.

3 MR. SIMMS: What Your Honor is doing --

4 THE COURT: You can enforce your claim, your Hanjin  
5 claims against them in South Korea. Or you can, once they come  
6 off charter you can enforce those claims wherever.

7 MR. SIMMS: Your Honor let me just, we can't enforce  
8 our claims in South Korea. We can't.

9 THE COURT: You have zero claims? You don't even have  
10 an unsecured claim?

11 MR. SIMMS: We don't have to --

12 THE COURT: You don't have an administrative claim?

13 MR. SIMMS: That's not sufficient protection. To  
14 stand behind a billion dollars worth of secured debt is, with  
15 the Court making us totally unsecured leaving our only, our  
16 only right to payment which is security, that's, that can't  
17 possibly be under 15:22 sufficient protection. It can't  
18 possibly.

19 And the Court having entered that order relating to  
20 the Boston, it wasn't supported under 15:22 to begin with.  
21 Because again the premise of the Court's order, the sea change  
22 was when the Korean lawyers spoke up and said oh yes  
23 absolutely, the maritime lien creditors will have protection in  
24 Korea.

25 THE COURT: Paid in full they said.

1 MR. SIMMS: Not true.

2 THE COURT: Well they changed their mind later in the  
3 hearing.

4 MR. SIMMS: Yes, they did. Yes, they did.

5 THE COURT: They did soften that a lot. And just to  
6 be clear, when I made my decision I was, I did not believe that  
7 if you guys filed in South Korea you would have a first lien  
8 and be paid in full. I knew, I know that your rights are a lot  
9 better in ports here in the U.S. than they are anywhere else,  
10 including Korea. Well maybe not anywhere else, but in many  
11 other places including South Korea. I'm giving you, I gave  
12 you, I understood that when I made the decision.

13 MR. SIMMS: Your Honor I know you did. And so, but  
14 the, many other places or hardly any places. If what the Court  
15 is saying is wait until the ships get to Panama or Canada, it's  
16 basically the only two places we can exercise our maritime  
17 liens and Australia. They're not going there. They're not  
18 going they're. They're here.

19 THE COURT: Yes, but maybe they weren't coming here  
20 either if --

21 MR. SIMMS: Oh, let me go, let me go into that. We  
22 heard last week that Hanjin as a charterer directs where the  
23 ships go. The Court's order facilitated bringing the cargo in  
24 and that was job one.

25 And so it's up to Hanjin to say bring the ships in.

1 Or it's up to the owners to say we are terminating the charter  
2 and we're going to take the cargo someplace else. What happens  
3 when the cargo goes someplace else. Owners have a problem.  
4 For non-delivery of cargo, there are maritime liens.

5 And so the owners have to bring the ships in to where  
6 the cargo is going to be delivered. And this happens all the  
7 times when there's an insolvent charter. And when there's an  
8 insolvent charter then the owners through their insurers often  
9 will come and they will put security for the maritime liens.  
10 It's standard, common, happens all the time.

11 This is and that's what can happen now. And it's  
12 Hanjin's call about whether the ships come in. Hanjin's call.

13 Now what's going to happen to these ships. Of course  
14 it's a long way across the Pacific. And they're going to have  
15 to be repositioned, reprovisioned and repositioned. And who's  
16 going to pay for that. Again, the ships are going to --

17 THE COURT: They might not get financing to get out.

18 MR. SIMMS: They're going to get turned back over if  
19 they're not already turned back over, to the owners of the  
20 ships. And it will be the ship owners that need to put up the  
21 security if Hanjin doesn't. But --

22 THE COURT: Once Hanjin terminates the charter, then  
23 you have the right to do that.

24 MR. SIMMS: Exactly. And the ships will be outside of  
25 the U.S. and outside of where we have security. This is the

1 place that we have security.

2 And so the ship, so back to the chart here. The  
3 point of the chart is that there are a relatively few number of  
4 ships now where maritime lien holders have come into the Court  
5 and said Your Honor, give us the permission to arrest these  
6 ships.

7 And so what the Court can do is to say all right, I  
8 know who's before me right now. I have World Fuel, I have  
9 these maritime lien holders. I have claims against these  
10 specific ships. I am going to let them enforce their liens.  
11 And anybody else who wants to come in, can make a claim to  
12 arrest or to get security can do that.

13 And so if there's, first after breathing for a week,  
14 we see that there's not an ocean of maritime lien holders  
15 coming in that are going to arrest the ship. For ship holders  
16 these are --

17 THE COURT: So what is the universal plans now?  
18 \$850,000?

19 MR. SIMMS: 850,000 for these claimants.

20 THE COURT: Right.

21 MR. SIMMS: Then Mr. Reed will tell you what the  
22 universe is for World Fuel. And then --

23 THE COURT: What is the universe for World Fuel?

24 MR. REED: Your Honor I have to get an accounting from  
25 my client. They said there were three ships that are off, that

1 are coming in. And some may be birthed already. I'd have to  
2 get an accounting as to how much in fuel is owed.

3 THE COURT: All right. Listen, the debtor doesn't  
4 have enough financing as we sit here today to do, they've got  
5 four ships. They might have another four ships a week for now.

6 So what happens. Do we just sit around and wait  
7 until --

8 MR. SIMMS: No, sir, we don't.

9 THE COURT: They might never have financing. They can  
10 barely afford to unload, to birth, unload and transport their  
11 cargo. How are they going to get another, millions more  
12 dollars to bond off these pre-petition liens?

13 MR. SIMMS: Understood. And here is the situation for  
14 the ship owners. It's a standard situation that happens  
15 whenever there are charters with in personam obligations that  
16 become insolvent.

17 THE COURT: They're in personam obligations but  
18 they're an account of a charter with the debtor.

19 MR. SIMMS: Yes. But the vessel itself is considered  
20 to be a separate person. The vessel, the obligation is joint  
21 and several. The vessel is obligated to pay if Hanjin doesn't  
22 pay.

23 And so the owners are the ones that need to put up  
24 the security. And it's only fair, all right. How did the  
25 ships get here in the first place, because of our fuel.

1 Because of our tugs. Who got the cargo delivered. If it  
2 wasn't for the tugs, there'd be no cargo coming in. If it  
3 wasn't for the fuel, the ships would be just floating around  
4 out in the ocean.

5 The Seaspan Efficiency is floating out in the middle  
6 of the ocean. We've talked to their counsel. They were here  
7 last Friday. It's running on our fuel. It took it on on  
8 August 28th. It's able to run and to preserve the owners'  
9 value of the ship and the mortgage holders and everybody else  
10 because of our fuel. That's why you have maritime liens in  
11 rem. Because the maritime liens, the necessary benefit the  
12 ship, make it run. And so --

13 THE COURT: But you don't have those rights anywhere  
14 but here in the U.S., right?

15 MR. SIMMS: It is United States law, yes, that's  
16 right. And that's why it's so important that the Court allow  
17 us sufficient protection under 15:22. That's the whole, that's  
18 the catch under 15:22.

19 Because the Court can say yes, I know that there's a  
20 foreign proceeding and I'm, under Chapter 15, supposed to help  
21 that foreign proceeding with a qualification that I can't make  
22 second class citizens out of U.S. citizens that have U.S.  
23 rights. And as we've seen, that's exactly what will happen  
24 here. We have absolutely no rights in the foreign proceeding  
25 as in rem maritime lienholders.



1 THE COURT: You say absolutely, absolutely no in rem  
2 first priority lien rights.

3 MR. SIMMS: Exactly, exactly.

4 THE COURT: You have some, you have rights to claim a  
5 lien.

6 MR. SIMMS: As, there is none. I can go in and I can  
7 a claim all I want. And if I could say lien in Korean, I'd get  
8 laughed at just probably even more. The --

9 THE COURT: Well you have to get Korean counsel and  
10 assert your position that you're asserting here today.

11 MR. SIMMS: But there is no lien. There is no lien,  
12 there is no lien. We presented the Korean law right here. The  
13 Hanjin side has had a chance in the last week to come back and  
14 to say you're, there's something that infinitesimally  
15 approaches a 15:22 sufficient protection for you, it's not  
16 there. They don't have it.

17 And so these ships are going to come in. Why are  
18 they going to come in, because Hanjin can order them to.  
19 Because the Court has ordered that the contracts stay in place.  
20 The ships must come in. And we will, as we have, allow them to  
21 work and to get all the cargo off.

22 But the, we have the benefitted the ships. The  
23 reason they're here is because of what we've given them, we  
24 have maritime liens in rem. We have to be sufficiently  
25 protected.

1 THE COURT: Yes, but the reason your fuel and tugs  
2 aren't paid for is because of the financial problems of a  
3 company that's based in Korea. And --

4 MR. SIMMS: Understood.

5 THE COURT: And you should go back to South Korea and  
6 assert your rights because of that in that insolvency  
7 proceeding.

8 I realize that your rights there are probably not  
9 going to be nearly as good as they are here when and if ships  
10 come to port.

11 The part of the idea of Chapter 15, one of the  
12 principles is internally commodity. And sometimes people with  
13 rights in the U.S. in a Chapter 15 case don't get those exact  
14 rights when the U.S. court is the ancillary court and the  
15 Korean court is the foreign main court.

16 MR. SIMMS: Well --

17 THE COURT: And I think this is one of those times.

18 MR. SIMMS: Your Honor has given rights to other lien  
19 holders, possessory lien holders. Why is that any different  
20 than here? In other words, you have --

21 THE COURT: Because they had possession when the case  
22 filed. When the case filed in Korea, your vessels were not in  
23 U.S. ports. And as to the vessels in U.S. ports, my ruling  
24 didn't apply to them.

25 MR. SIMMS: Possession is perfection. That is, if

1 they didn't have possession the liens wouldn't be perfected.  
2 The maritime liens were automatically perfected when the  
3 necessities were provided to the ships. So the liens are of no  
4 different quality at all.

5 THE COURT: Yes, but they're not any good until the  
6 vessel pulls into the U.S. waters.

7 MR. SIMMS: They are, they are --

8 THE COURT: That's the distinction.

9 MR. SIMMS: They are good anywhere that the courts  
10 will recognize them.

11 THE COURT: All right, well maybe South Korea is such  
12 a court.

13 MR. SIMMS: But it's not Your Honor. We've presented  
14 the law to the Court. It clearly shows that there are no  
15 maritime lien or arrest rights for these creditors in South  
16 Korea, zero, none.

17 And Hanjin has already announced where it's going to  
18 take the ships, to places where -- that is if they don't go off  
19 charter and where they can't be arrested by our clients.

20 And so I don't think that 15:22 allows for the  
21 stripping of our client's security in this kind of situation.  
22 If Hanjin orders the ships to come in, the ships must come in,  
23 if they are still under charter. They must come in. The  
24 owners don't have a choice unless they're going to breach the  
25 charter party and if they're in the Court's jurisdiction,

1 breach the Court's order that keeps the contracts in place.

2 So it's up to Hanjin to say bring the ships in. And  
3 it's up to the owners then to bond them out.

4 But Your Honor you know, back to where we were on  
5 Friday, I, and this is why, I started banging away on the  
6 motion to reconsider. There is no sufficient protection that  
7 the Court is giving us. What you're doing is reducing us to  
8 being an ordinary creditor.

9 It's as if you took, say there was a mortgage on the  
10 ship, a U.S. ship mortgage. And you said to the ship mortgage  
11 holders sorry, I don't want you to arrest the ship in the U.S.  
12 It's going to go off and get arrested someplace else where you  
13 have no priority. You will have stripped off an entirely  
14 secured creditor recognized under United States law. Where in  
15 the Bankruptcy Code is that ever allowed without giving  
16 sufficient, adequate protection. It's not.

17 And so this is our problem. And so what we'll have  
18 to do is, as we walk out of here, if we're not given sufficient  
19 protection and all we're asking is just for these ships and  
20 just for these creditors. Is, we'll have to go upstairs I  
21 guess and get a temporary stay and go through the appeal.

22 But there's just, and that's why I wanted to bring  
23 the reconsideration motion because there's no way that this can  
24 stand.

25 THE COURT: Maybe you'll be right upstairs or

1 downstairs.

2 MR. SIMMS: All right.

3 THE COURT: Listen, I've thought -- this has been a  
4 tough issue and I fully understand your argument. I thought  
5 about it before Friday. I knew this was going to be a sticky  
6 issue. I've thought about it since.

7 I think that one of the principles of Chapter 15 is  
8 deference to the main court, the center of main interests and  
9 here that's South Korea.

10 If I, I'm not called upon to enforce every U.S. lien  
11 holder right to the letter. And here I was persuaded a lot by  
12 the fact that the automatic stay was in place in Korea, the  
13 Korean version of the automatic stay. And the fact that at the  
14 time the case was filed in Korea, these vessels were not, the  
15 vessels that are stayed and are not getting adequate protection  
16 other than the right to pursue their claims in South Korea,  
17 they were not in U.S. ports. And so the liens was inchoate and  
18 would not become real and valuable until the vessels pulled  
19 into the U.S. So in essence you were getting a valuable lien  
20 post petition and contrary to a stay issued by the foreign main  
21 court.

22 MR. SIMMS: Your Honor we're not --

23 THE COURT: I'm not done yet. Also I was motivated by  
24 the practicalities of this case, the fact that the BCOs in  
25 particular needed to get their cargo into port. And the

1 debtor, the debtor ships were at least hesitant to come into  
2 U.S. if their vessels were going to be seized. I was also  
3 motivated by the lack of working capital at this point in time.

4 The case was at a standstill. I thought the issuance  
5 of a stay would get commerce moving in the ordinary course.

6 So I thought I was right then and I still do. I  
7 still do. But it wasn't an easy decision and I fully  
8 understand. But I think this is a Chapter 15 case, it's not a  
9 Chapter 11 case. And in Chapter 15 U.S. law is important. But  
10 when you talk about the debtor/creditor relationships and  
11 claims against the debtor and its assets, the law of the  
12 foreign main proceeding should be enforced unless that law is  
13 manifestly offensive to American interests.

14 That doesn't mean that everything that is not  
15 completely the same as U.S. law should not be enforced. But  
16 that was my reasoning. I still believe it's the right  
17 decision. Is there anything else that you have or Mr. Reed?

18 MR. REED: I would just like to be heard briefly  
19 Judge. Steve Reed of Gregory & Reed on behalf of World Fuel  
20 Services, Inc.

21 I'm not going to reiterate everything that Mr. Simms  
22 said. But I just wanted to say Judge I think in the scheme of  
23 things, Your Honor's opinion was based on the fact that the  
24 vessel could enter freely into the ports and also be able to  
25 leave freely.

1 THE COURT: Right.

2 MR. REED: And now we know that, we believe that  
3 leaving freely isn't so important anymore because we believe  
4 the charters are either going to be revoked, in which case I  
5 suppose a stay wouldn't apply. Or if they were just going to  
6 be sitting in the ports, the owners will take them out and take  
7 them out of the jurisdiction of the United States and therefore  
8 essentially what we've argued, strip our liens. So they're not  
9 --

10 THE COURT: No, your lien won't be stripped. It will  
11 still -- I'm not stripping anything. I'm just saying that you  
12 can't enforce here in the U.S. right now.

13 MR. REED: If those vessels leave the U.S. ports and  
14 don't go to another jurisdiction that will recognize our U.S.  
15 liens under Rule C, we're not going to have those liens any  
16 longer.

17 THE COURT: But you have that risk anyway if you  
18 supply a vessel that travels from the U.S., in and out of the  
19 U.S. That's a risk that you've had, you know, since you  
20 supplied the fuel.

21 Listen, something might change down the road and the  
22 vessels might come back to the U.S. like if the charter's  
23 revoked, then you can enforce your liens. I'm not saying you  
24 can't. I'm not saying you can't try to enforce your liens in  
25 the Korean proceeding. I don't know if you're as pessimistic

1 as Mr. Simms about your rights there. But I don't know what a  
2 Korean Court would do. I don't know what, how they evaluate  
3 claims that are very strong under U.S. law. Maybe they might  
4 apply U.S. law in Korea. I don't know.

5 MR. REED: But --

6 THE COURT: But I just couldn't bring this case to a  
7 -- we needed to get these vessels moving. And it appeared to  
8 me that the vessels weren't going to move to the U.S. with  
9 cargo owned by BCOs unless they did so under the protective  
10 umbrella of the automatic stay.

11 And I wish I could have ordered adequate protection  
12 but there was no ability for the debtor to do that and still  
13 isn't. All the debtor, the debtor can barely pay the unloading  
14 costs at this point.

15 MR. REED: The debtor has thankfully paid down some of  
16 our debt already and the debt that's owed to Mr. Simms. So I  
17 think --

18 THE COURT: Well that's good because you had --

19 MR. REED: Yes.

20 THE COURT: Because the vessel were in U.S. ports when  
21 the case was filed. So those liens transformed from potential  
22 liens that would be very valuable when the ship pulled into the  
23 U.S., into real liens because the ships were in the U.S.

24 MR. REED: And in the scheme of things, the liens  
25 aren't going to be that great anyway as Mr. Simms suggested.



1 He's got only a few vessels that are coming to port. And my  
2 client's telling me now that there are three other vessels that  
3 might be coming into port. And the amounts of money, I can get  
4 an accounting on that, but the amount of money is not going to  
5 be that great. So in the scheme of things, you would think  
6 that the adequate assurance for payment, whether it's a line of  
7 credit, cash, bond, whatever, would not be that significant and  
8 the debtor would be able to come up with that money or the ship  
9 owner. Because this is a Rule C in rem action against the ship  
10 owner and not against, against, really not against the ship  
11 owner, it's really against the ship itself and not against the  
12 debtor. This is assets that aren't owned by the debtor.

13 THE COURT: I understand, I understand. Ms. Volkov do  
14 you have anything to say?

15 MS. VOLKOV: Your Honor I actually had a lot to say  
16 but I'm going to take a victory when I can get it. And so I  
17 appreciate the Court's denial of the motion for  
18 reconsideration.

19 I actually though perhaps I was in the Twilight Zone  
20 because I've always thought that a motion for reconsideration  
21 requires the movant to actually set forth what the law is for a  
22 motion for reconsideration and that the Court made some, you  
23 know, manifest error of law, but.

24 THE COURT: Well listen, you brought this on short  
25 notice. And frankly this issue wasn't flagged for me by you.

1 And also I'm a little concerned by the statement by your Korean  
2 counsel during the last hearing to the effect that these liens  
3 were strong in the South Korean proceeding. I don't know  
4 whether that is, whether that was just an error. I do  
5 appreciate the fact that someone in Korea sort of modified that  
6 statement and watered it down significantly before the end of  
7 the hearing.

8 So for that reason I thought and I think the more  
9 argument I hear on this the better. I thought Mr. Simms and  
10 Mr. Reed deserved another bite at the apple and  
11 reconsideration. So I didn't think it was unfair.

12 MS. VOLKOV: I'm not saying it's unfair Your Honor. I  
13 just, I'm saying that I'm just sort of hearing the same kind of  
14 arguments that I had heard last Friday.

15 The only -- and I don't want my silence as to each  
16 and every argument that they made to be construed that I agree  
17 with anything. But if Your Honor would like me to say a couple  
18 of things I'm certainly happy to do that as well.

19 But I don't know if Your Honor is sort of done and  
20 ruled on the motion for reconsideration.

21 THE COURT: I'm done. I mean, you can save it for  
22 your argument before the District Court if that's where this  
23 ends up.

24 MS. VOLKOV: That's fine Your Honor. Again I just  
25 want the record to reflect that I don't agree with many of the

1 things that Mr. Simms has said. And also with me in Court  
2 today is maritime counsel for us that I felt it was important  
3 for the Court to hear from our side, to the extent the Court  
4 wanted to get into any nitty gritty on the substance of the  
5 maritime liens. But I don't think the Court --

6 THE COURT: Well I don't think, I think I understand  
7 them.

8 MS. VOLKOV: Okay, so.

9 THE COURT: I understand. I think they're first liens  
10 on vessels when they come to the U.S.

11 MS. VOLKOV: Well that's --

12 THE COURT: Unless the bank is a U.S. approved ship  
13 mortgage company.

14 MS. VOLKOV: I think again in theory that's right. It  
15 doesn't mean necessarily that there cannot be holes poked in  
16 the actual validity of a lien. It's not different than, you  
17 know, in any bankruptcy case where you challenge the extent of  
18 the lien or the actual substantive nature of the lien.

19 In theory, there is the law that says that if you  
20 provide necessities, et cetera. But now that I've learned more  
21 about this as well and that's why I brought maritime counsel  
22 also, there are many, many arguments that ship owners can make  
23 to dispute the validity of a maritime lien.

24 But again Your Honor if we don't need to get into  
25 that, we also don't need to get into the fact that not a single

1 piece of evidence on Korean law is actually before the Court  
2 through Mr. Simms. And there's, even if you were to consider  
3 anything that Mr. Simms submitted which is not evidential, it  
4 actually goes contrary to what Mr. Simms has said.

5 But we are not here to talk about that. And I'm  
6 happy to do that, you know, if Mr. Simms decides to appeal Your  
7 Honor's ruling which is what he actually said he was going to  
8 do last Friday. But instead decided to rehash the arguments  
9 again. So thank you Your Honor.

10 THE COURT: All right, I will issue a decision, an  
11 order on this motion to -- the motion is going to be denied.  
12 And I will set forth my basis in a short decision and order  
13 that will be issued by Monday.

14 MR. FEINSTEIN: Your Honor (inaudible - static)

15 THE COURT: Hold on, I got to turn you down. All  
16 right, say your name again.

17 MR. FEINSTEIN: It's Robert Feinstein, Your Honor.

18 THE COURT: Oh, hello Mr. Feinstein.

19 MR. FEINSTEIN: Your Honor I've been on the whole  
20 time. The Court called me Listen only even though I asked for  
21 a live one.

22 So I just want to, number one, thank you for Your  
23 Honor's ruling. Number two with respect to the status  
24 conference, everybody vented to the full extent so I don't need  
25 to add anything.

1 But if I understood Your Honor correctly, you  
2 directed the debtors to negotiate the protocols that would  
3 relate to the alliance ships and to goods that are on land  
4 which we discussed last Friday and didn't make its way into the  
5 protocol.

6 So on behalf of at least HP and I hope other BCOs  
7 will join me, I'd like to invite the debtor to a conference  
8 call either tomorrow afternoon or Monday morning to try to work  
9 out those protocols so that we can report back to Your Honor  
10 next Friday that either we've reached agreement or have Your  
11 Honor direct the debtors to basically apply the protocol to  
12 those two categories of containers, goods and alliance ships  
13 and goods at the port.

14 Hopefully we can work out the container problem as  
15 well with the container lessors. But I know Your Honor didn't  
16 direct that, but it is gumming up the works.

17 But in any event we can work out the details off  
18 line. But we would like to pursue a discussion with Cole  
19 Schotz and with Hanjin about expanding the protocol.

20 THE COURT: All right, well I think it made it pretty  
21 clear to Mr. Kiel that I'd like to see that happen.

22 MR. FEINSTEIN: Thank you.

23 THE COURT: All right, we're in recess. Thank you.  
24 Have a good day.

25 MS. VOLKOV: Thank you Your Honor.

Colloquy

30

1 MR. FEINSTEIN: Thank you Your Honor.

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3 C E R T I F I C A T I O N

4 I, TRACY GRIBBEN, court approved transcriber, certify that  
5 the foregoing is a correct transcript from the official digital  
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